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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)

PP Docket No. 93-253

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COMMENTS OF GO COMMUNICATIONS CORPORATION
CONCERNING BLOCK F AUCTION PROCEDURES

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SUMMARY

The Commission has decided to hold separate auctions for the two entrepreneurial bands in the broadband personal communications service ("PCS") -- the 30 MHz "Block C" band and the 10 MHz "Block F" band -- and it has sought comment on whether the Block F auction should be held separately or combined with the auction for the "Block D" and "Block E" 10 MHz open-eligibility licenses.

GO Communications Corporation ("GO") believes the Commission should hold a separate auction for Block F licenses and that this auction should commence as quickly as possible after the close of the Block C auction. Combining the Block F auction with the Block D/Block E auction would produce an enormously complex auction with no appreciable benefits to bidders of the public.

GO also urges the Commission to permit entrepreneurs to bring competitive PCS service to the public as quickly as possible by (1) closing each Block C auction in the top 50 markets sequentially rather than simultaneously and (2) adopting a general policy in favor of granting interim operating authority to Block C auction winners while post-auction license applications are pending.

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TO: The Commission

**COMMENTS OF GO COMMUNICATIONS CORPORATION
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The Commission has decided to hold separate auctions for the two entrepreneurial bands in the broadband personal communications service ("PCS") -- the 30 MHz "Block C" band and the 10 MHz "Block F" band -- and it has sought comment on whether the Block F auction should be held separately or combined with the auction for the "Block D" and "Block E" 10 MHz open-eligibility licenses.^{1/} GO Communications Corporation ("GO") believes the Commission should hold a separate auction for Block F licenses and that this auction should commence as quickly as possible after the close of the Block C auction. GO also urges the Commission to permit entrepreneurs to bring service to the public as quickly as possible by (a) closing each Block C auction in the top 50 markets sequentially rather than simultaneously and (b) adopting a general policy in favor of granting interim

^{1/} Public Notice, FCC Announces Short-Form Date for 493 BTA Licenses Located in the C Block for PCS in the 2 GHz Band and Requests Comment on Auction of F Block Licenses (Dec. 23, 1994) (the "Public Notice").

operating authority to Block C auction winners while post-auction license applications are pending.

I. BLOCK F ENTREPRENEURIAL BLOCK LICENSES SHOULD BE AUCTIONED SEPARATELY FROM BLOCK D AND E "OPEN ELIGIBILITY" LICENSES.

The Commission's overriding goal in this docket properly has been the creation of an auction structure that permits bidders to make the most rational and effective decisions. Such a structure will permit PCS licenses to be issued to parties that value them most highly and will facilitate the quick and effective implementation of PCS service to the public. This goal can be best accomplished by having a separate auction for the Block F licenses as quickly as possible after the close of the Block C auction.

In the Public Notice, the Commission correctly reasoned that a simultaneous auction covering 986 licenses in the two entrepreneurial blocks "may create excessive administrative complexity for the bidders and for the Commission."^{2/} This logic applies with even greater force to the auction of the Blocks F, D and E licenses. If an auction for 986 licenses would create an undue amount of administrative complexity, it is quite certain that an auction for 1,479 licenses would be even more cumbersome and risky.

An auction solely for Block F licenses, in contrast, would not be unduly complex. In fact, the administration of the Block F auction would be, for all practical purposes,

^{2/} Id. at 2.

identical to the administration of the Block C auction. The number of licenses would be identical to the Block C auction, as would the qualifying criteria for bidders. After the experience of conducting the Block C auction, the staff and the Commission's auction contractor would be able to conduct the Block F auction efficiently and easily.

In contrast, a combined auction of Block F, Block D and Block E licenses could be exceedingly difficult to administer. Such an auction would involve three times as many licenses as the Block C auction. It would include bidders with entirely different qualifying characteristics -- one group of bidders would be entrepreneurs, which would be subject to strict entry limitations; another group of bidders would be successful Block A and B bidders and incumbent cellular carriers, which would not be subject to entry limitations of any sort. In addition, one group of bidders would include entities that would be entitled to bidding credits on one-third of the licenses being auctioned; another group of bidders would not be subject to any bidding credits. Particularly in later rounds, when multiple bids could be submitted for each of nearly 1,500 licenses in a single day, there could be a significant potential for bidding errors.

Finally, there is no persuasive business or administrative reason for combining the Block F auction with the Block D/Block E auction. When licenses have "strong value interdependencies," it makes sense to auction those licenses

simultaneously.^{3/} If, for example, a bidder may seek to combine certain geographic regions, it makes sense to permit all those regions to be auctioned at the same time to permit that bidder to effectuate its business plan. There is not, however, a "strong value interdependency" among Block F licenses and Block D/Block E licenses. Block F bidders are likely to be either (1) entrepreneurs who were successful bidders in the Block C auction and who are seeking to obtain a total of 40 MHz in the region they expect to serve or (2) entrepreneurs seeking to provide 10 MHz niche services (either on their own or in cooperation with either 30 MHz PCS auction winners or cellular licensees). Block D and F bidders are likely to be either (1) successful bidders in the Block A/Block B auction seeking a total of 40 MHz in their region or (2) incumbent cellular providers. It is quite unlikely that a significant number of bidders would seek multiple 10 MHz licenses for the same market, which would be the only circumstance in which combining the Block F auction with the Block D and E auction would be rational.^{4/}

Accordingly, the Block F auction should be held separately. GO believes that this auction must be held prior

^{3/} See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Second Report and Order, 9 F.C.C. Rcd. 2348, ¶ 69 (1994).

^{4/} See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Fifth Report and Order, FCC 94-178, ¶ 40 (July 15, 1994) ("[w]e believe, however, that [bidding for multiple 10 MHz blocks] is not likely to be a widely used strategy").

to the Block D/E auction. The Commission previously decided that Block F licenses would be auctioned prior to Block D and E licenses.^{5/} The business plans of potential bidders that have justifiably relied on this decision should not be endangered at this late date.^{6/}

In short, there is no rational reason for combining all 10 MHz blocks into a single, enormously complex auction. There are, however, persuasive reasons to avoid the complexity of such an auction. We believe the Commission should auction Block F licenses separately, and that the auction for Block F licenses should be held as closely on the heels of the Block C auction as possible.

II. THE COMMISSION SHOULD FACILITATE THE EARLY IMPLEMENTATION OF COMPETITIVE PCS SERVICE TO THE PUBLIC BY ESTABLISHING RATIONAL STOPPING RULES AND BY GRANTING INTERIM OPERATING AUTHORITY TO BLOCK C AUCTION WINNERS.

The Block A and B auctions now underway will be completed before the Block C auction begins. It is quite likely that licenses will be granted to Block A and B auction winners months before Block C auction winners can be licensed. The strategic importance of the head-start that these

^{5/} See id. at ¶ 36.

^{6/} In addition, entrepreneurs may have a more pressing need for 10 MHz blocks than might MTA auction winners seeking Block D and E spectrum. Certain entrepreneurs may need to acquire 40 MHz of spectrum in their markets to avoid the potentially time-consuming and expensive process of relocating 2 GHz microwave incumbents, while larger companies holding MTA licenses may be better able to afford immediate microwave relocation.

licensees will have over entrepreneurial companies winning licenses in the Block C auction should not be underestimated. These companies, which generally are larger and better funded than entrepreneurs, will be able to parlay their early position in the PCS market into a greater subscriber base from the outset. The answer is not to delay the licensing of Block A and B PCS licensees; such an action would only delay service to the public and permit dominant cellular licensees to further consolidate their control of the wireless marketplace. Rather, the Commission should take reasonable steps to ensure that Block C entrepreneurs are able to begin providing truly competitive PCS service to the public as quickly as possible.

Stopping Rules. An important first step would be for the Commission to establish a stopping rule for the Block C auction that would permit markets on which bidding effectively has closed to proceed to the licensing stage as quickly as possible. Rather than holding all licenses open for bid until bidding has ended for all 493 Block C licenses, GO suggests that the Commission sequentially close the Block C auction by separating out the top 50 markets. The Commission should establish that after five rounds have elapsed in the auction with no new bids being submitted for any license among the top 50 markets, bidding would be closed sequentially for those 50 licenses (irrespective of the stage). Alternatively, the Commission could establish a separate auction process for the top 50 Block C markets, either simultaneously with the

other markets or before the bidding begins for the other markets. Bidding for licenses below the top 50 markets could continue to conclusion, either in 50-market steps or until bidding has closed on all remaining markets.

This approach would have several benefits. First, it would permit Block C auction winners in the top 50 markets -- which will be the most competitive PCS markets in the country -- to enter the wireless market in greater temporal parity with Block A and B auction winners. Block C winning bidders in these markets would be free to file post-auction applications and proceed with the licensing process while bidding continues for smaller markets; the public in these larger markets would not be deprived of competitive service merely because bidding in other, smaller markets is continuing. There is no reason to deny competitive PCS service to the top 50 markets merely because bidding in smaller markets has not yet closed.

Additionally, such an approach would permit Commission resources to be used effectively. It would allow a staggered schedule for the filing of post-auction license applications. Rather than inundating the staff with a deluge of 493 simultaneously filed license applications, processing could commence for an initial complement of 50 applications prior to the end of the auction for smaller markets. Overall, this approach would speed service to the public, conserve

Commission resources, and facilitate the efficient conduct of both the auction and licensing process.

Interim Operating Authority. GO believes that the Commission's staff will be able to expeditiously process license applications after the Block C auction. It is, however, possible that petitions to deny may delay the issuance of at least some Block C licenses. If these licenses are delayed, the Block A and B licensees in these markets will be able to build out their systems and begin attracting customers. Cellular licensees, too, will continue to attract subscribers. If the Block C licensee is delayed, its opportunity for a fair chance at success in the wireless telecommunications marketplace may be diminished.

The Commission has long had a policy of permitting interim operating authority to be granted when competitive service to the public may be delayed for the processing of applications or for other reasons.^{2/} This policy should be extended to permit successful Block C bidders to begin construction and operation -- wholly at their own risk -- while their license application is pending at the Commission. Such an approach could mitigate the delay in permitting

^{2/} See La Star Cellular Tel. Co. v. Federal Communications Comm'n, 899 F.2d 1233, 1235 (D.C. Cir. 1990); Eugene Cellular Tel. Co., Inc., FCC File No. 00102-CL-CP-91 (granted August 9, 1991); Reno Cellular Tel. Co., FCC File No. 05733-CL-CP-90 (granted August 16, 1990).

competitive PCS service to the public that may be produced by the licensing and petition-to-deny process.^{8/}

Under such a policy, successful bidders could accompany their post-auction applications with a request for interim operating authority pending the Commission's grant of a commercial PCS license.^{9/} Upon the acceptance of that application, the bidder would be authorized to provide interim PCS service on Block C in the licensing area (subject, of course, to all technical rules) until the staff has processed its license application.^{10/} If the ultimate license application is granted, the bidder's interim operations would simply convert into permanent commercial PCS operations. If the application is denied, the bidder would be authorized to continue providing interim service to the public until the ultimate licensee is authorized by the Commission.

^{8/} The Commission recently has decided to permit pre-authorization construction of "big LEO" mobile satellite systems because of the benefit of instituting service to the public swiftly. See Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, 9 F.C.C. Rcd. 5936, ¶ 166 n.213 (1994). Those concerns apply with even more force here, where needed competition in numerous markets could be delayed if entrepreneurs are unable to begin providing PCS service in a timely manner.

^{9/} Of course, all PCS licensees may take appropriate steps toward pre-authorization construction under existing Commission policies. The adoption of a policy favoring interim operating authority is necessary only to permit PCS licensees to take the additional step of beginning interim commercial operations prior to the issuance of a PCS authorization to those licensees.

^{10/} Alternatively, but less preferably, interim operations could be delayed until the Commission has granted the request for interim operating authority.

Competitive PCS service to the public would be fostered, and delays in commencing service would be avoided.

A policy favoring the grant of interim operating authority would not impinge upon any other party's rights, including, in the case of a denial of the successful bidder's license application, the subsequent successful bidder for the same license. As the Commission has required in the cellular context, the successful bidder's activities under interim operating authority would be appropriately limited:

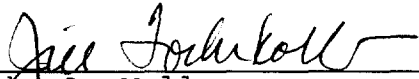
- Construction and operation of the proposed facilities would be at the interim operator's risk. If its permanent license application is not granted, it would have no right to compensation from the permanent licensee for its expenses in constructing and/or operating its proposed facilities (although it would be free to enter into agreements with the subsequent licensee).
- If the interim operator's application is denied, its interim authority would automatically terminate upon the initiation of PCS service by the permanent licensee, and the interim operator would be required to take all actions necessary to provide a smooth transition to the permanent licensee without disruption of service.
- The interim operator would have no right to transfer or assign the interim authority.
- The interim operator would have no right to request reimbursement of more than its direct costs in obtaining a subscriber who is transferred to the permanent licensee.

A policy favoring interim authority thus would permit competitive service to be implemented quickly, without harming the rights of any other party. The public would

benefit from having a competitive, entrepreneurial alternative to the cellular and Block A and B PCS providers.

Respectfully submitted,

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